

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GUILLERMO MORAN, on behalf of himself and all others
similarly situated,

Plaintiff,

Case No.: 15-cv-00043

-against-

ANSWER

PAUL COMO SWIMMING POOLS INC. d/b/a
POOL DOCTOR and PAUL ANTHONY COMO, JR.,

Defendants.
-----X

Defendants, by their attorneys, the LAW OFFICES OF RAYMOND A. GIUSTO, P.C.,
as and for their answer to the Complaint, herein set forth as follows:

1. Neither deny nor admit the allegations contained in Paragraph "2" of the Complaint but respectfully refer all questions of law and interpretation of statutes to the Court.
2. Deny the allegations contained in Paragraph "3" of the Complaint.
3. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs "4" and "5" of the Complaint.
4. Neither deny nor admit the allegations contained in Paragraphs "6" and "7" of the Complaint but respectfully refer all questions of law and interpretation of statutes to the Court.
5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "8" of the Complaint.
6. Deny the allegations contained in Paragraph "9" of the Complaint.
7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "10" of the Complaint.
8. Neither deny nor admit the allegations contained in Paragraphs "11" and "13" of

the Complaint but respectfully refer all questions of law and interpretation of statutes to the Court.

9. Neither deny nor admit the allegations contained in Paragraphs "14", "15", "16", "17", "18" and "19" of the Complaint but respectfully refer all questions of law and interpretation of statutes to the Court.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "20" of the Complaint.

11. Deny the allegations contained in Paragraphs "21", "22", "23", "24", "25", "26", "27", and "28" of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "29" of the Complaint and respectfully refer all questions of law and interpretation of statutes to the Court

13. Deny the allegations contained in Paragraph "30" of the Complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs "31", "32" and "33" and respectfully refer all questions of law and interpretation of statutes to the Court.

14. Denies the allegations contained in Paragraphs "34", "35", "36", "37(a)(b)(c)(d)(e)(f)(g)(h)(i)", "38", "39" and "40" of the Complaint and respectfully refer all questions of law and interpretation of statutes to the Court.

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "41" of the Complaint respectfully refer all questions of law and interpretation of statutes to the Court.

16. Deny the allegations contained in Paragraph "42" of the Complaint and

respectfully refer all questions of law and interpretation of statutes to the Court.

17. Deny or admit the allegations contained in Paragraph "44" of the Complaint as set forth above.

18. Deny the allegations in Paragraphs "45", "46", "47" and "48" of the Complaint and respectfully refer all questions of law and interpretation of statutes to the Court.

19. Deny or admit the allegations contained in Paragraph "49" of the Complaint as set forth above.

20. Deny the allegations contained in Paragraphs "50", "51" and "52" of the Complaint and respectfully refer all questions of law and interpretation of statutes to the Court.

21. Deny or admit the allegations contained in Paragraph "53" of the Complaint as set forth above.

22. Deny the allegations contained in Paragraphs "54" and "55" of the Complaint as set forth above and respectfully refer all questions of law and interpretation of statutes to the Court.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

23. Plaintiff's complaint fails to state a cause of action and must be dismissed in its entirety.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

24. The Defendants have properly complied with all applicable statutes and regulations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

25. Plaintiffs were paid in accordance with the requirements of the statutes relied upon in the Complaint.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

26. Any acts or omissions, which acts or omissions are specifically denied herein, giving rise to the Plaintiff's action were in good faith and/or Defendants had reasonable ground for believing that such acts or omissions were not a violation of the Fair Labor Standards Act and/or New York Labor Law.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

27. The Plaintiff has come into this court with unclean hands and must be denied any equitable relief.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

28. This action fails to meet the requirements of Federal Rule 23.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

29. The Plaintiff class fails to meet the requirements of Federal Rule 23(b)(3).

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

30. The Plaintiff class fails to meet the requirements of Federal Rule 23(a)(i).

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

31. The Defendants possess separate and distinct defenses/counterclaims as to each potential member of the class.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

32. Plaintiff was employed as a manager of the corporate Defendant and was responsible overseeing day-to-day operations thereof. In addition, Plaintiff's salary was in excess of the statutory amount. As such, Plaintiff is exempt from the statutes relied upon by the Plaintiff in the Complaint.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

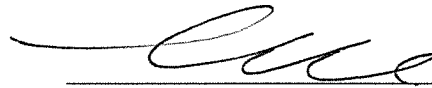
33. All or part of Plaintiff's claims are barred by the applicable Statute of Limitations.

WHEREFORE, Defendants respectfully request that the Plaintiff's Complaint be dismissed in its entirety, that Defendants be awarded costs and disbursements and attorney's fees incurred herein, and such other and further relief as this Court may deem just and appropriate.

Dated: February 23, 2015

Yours, etc.

LAW OFFICES OF
RAYMOND A. GIUSTO, P.C.



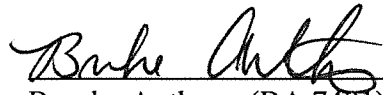
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CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2015 I mailed, by first class mail, a true and correct copy of the annexed Answer to the following counsel of record:

Peter A. Romero
FRANK & ASSOCIATES, P.C.
500 Bi-County Blvd., 112N
Farmingdale, New York 11735



Brooke Anthony (BA 7481)